

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Expanding the Economic and Innovation	)	Docket No. 12-268
Opportunities of Spectrum Through Incentive	)	
Auctions	)	

To: The Commission

**Comments of Journal Communications, Inc.**

These comments, submitted by Journal Communications, Inc. (“Journal”), address only one subject, although Journal as the parent corporation of the licensees of thirteen full power and two Class A broadcast television stations has an inherent interest in this proceeding generally.<sup>1</sup> The subject of these comments is the Commission’s obligation under Section 6403(b)(3) of the Spectrum Act not to involuntarily reassign a station operating on a UHF channel to a VHF channel during the repacking process.

Journal, through a subsidiary, is the licensee of WTVF, Nashville, Tennessee. WTVF operates on Channel 25, which is a UHF channel. Section 6403(b)(3) of the Spectrum Act prohibits the Commission from reassigning WTVF to a VHF channel if it is necessary for the Commission to change WTVF’s channel during the repacking process.

The Commission correctly recognizes that the repacking process presents a “complex engineering problem,” in large part because repacking must occur in real time during the reverse and forward auctions, take into account elections by certain stations to share channels or move

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<sup>1</sup> Journal is participating with other television broadcasters in other comments in this proceeding.

from a UHF to a VHF channel, and remain consistent with statutory obligations.<sup>2</sup> To solve this problem, the Commission is developing an algorithm. At this point, Journal does not know whether the Commission will decide to make the algorithm public prior to commencement of the auctions.

Whether the Commission decides to make the algorithm public or not, Journal urges the Commission to make public the underlying data concerning television broadcast stations that the Commission intends to use in applying the algorithm. It is essential to get this data right for two reasons. First, as noted above, Section 6403(b)(3) of the Spectrum Act prohibits the Commission from involuntarily moving a repacked station from a UHF channel to a VHF channel. Second, Section 6403(b)(2) requires the Commission to make all reasonable efforts to preserve a station's coverage area and population served as of the enactment date of the statute, February 22, 2012.

As Journal has previously discussed with Media Bureau staff, and as reflected in an ex parte notice filed on November 20, 2012, Section 6403(b)(3), unlike Section 6403(b)(2), contains no temporal limitation. This difference is particularly significant to WTVF, which on February 22, 2012, operated on VHF Channel 5, but had been ordered by the Commission to relocate to UHF Channel 25. *See DTV Allotments, Television Broadcast Stations, Nashville, Tennessee*, Report and Order, 26 FCC Rcd 7677 (Media Bureau 2011). Because the Commission has tentatively concluded to use a station's licensed facilities as of February 22, 2012, as the baseline for determining a station's coverage area and population served for purposes of Section 6403(b)(2), *see* NPRM at 12390 (¶ 98), the data to be analyzed by the Commission's repacking algorithm must include two very different entries for WTVF – one for

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<sup>2</sup> *In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, 27 FCC Rcd. 12357, 12373 (¶ 41) (2012) ("NPRM").

its licensed facilities as of February 22, 2012, and one for its status as a UHF channel as of the date of repacking.

The Commission will use its best efforts to insure that the database used by the repacking algorithm is complete and accurate. Mistakes, however, happen. While mistakes can often be corrected after the fact, a mistake in the database used by the repacking algorithm may result in a flawed auction result, which could be expensive, difficult and embarrassing to undo. Journal therefore urges the Commission to make public the data entries for each broadcast station to be analyzed by the repacking algorithm and to provide television broadcasters with adequate opportunity to review the entries and suggest corrections if necessary prior to commencement of the auctions.

Respectfully submitted,

**JOURNAL COMMUNICATIONS, INC.**

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